

**TEXT OF PROPOSED AMENDMENTS TO THE CONVENTION ON THE
INTERNATIONAL MOBILE SATELLITE ORGANIZATION
AS DEVELOPED BY THE ASSEMBLY**

THE STATES PARTIES TO THIS CONVENTION:

CONSIDERING the principle set forth in Resolution 1721 (XVI) of the General Assembly of the United Nations that communication by means of satellites should be available to the nations of the world as soon as practicable on a global and non-discriminatory basis,

CONSIDERING ALSO the relevant provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, concluded on 27 January 1967, and in particular Article 1, which states that outer space shall be used for the benefit and in the interests of all countries,

DETERMINED, to this end, to continue to make provision for the benefit of telecommunications users of all nations through the most advanced suitable space technology available, for the most efficient and economic facilities possible consistent with the most efficient and equitable use of the radio frequency spectrum and of satellite orbits,

BEARING IN MIND that the International Maritime Satellite Organization (INMARSAT) has, in accordance with its original purpose, established a global mobile satellite communications system for maritime communications, including distress and safety communications capabilities which are specified in the International Convention for the Safety of Life at Sea, 1974, as amended from time to time, and the Radio Regulations specified in the Constitution and the Convention of the International Telecommunication Union, as amended from time to time, as meeting certain radiocommunications requirements of the Global Maritime Distress and Safety System (GMDSS),

RECALLING that INMARSAT has extended its original purpose by providing aeronautical and land mobile satellite communications, including aeronautical satellite communications for air traffic management and aircraft operational control (aeronautical safety services), and is also providing radiodetermination services,

RECALLING FURTHER that in December 1994 the Assembly decided to replace the name "International Maritime Satellite Organization (INMARSAT)" with "International Mobile Satellite Organization (Inmarsat)", and that although these amendments did not enter formally into force, the name International Mobile Satellite Organization (Inmarsat) was used thereafter, including in the restructuring documentation,

RECOGNIZING that, in the restructuring of the International Mobile Satellite Organization, its assets, commercial operations and interests were transferred without restriction to a new commercial company, Inmarsat Ltd., while the continued provision of the GMDSS and adherence to the other public interests by the company have been secured by a mechanism for intergovernmental oversight by the International Mobile Satellite Organization (IMSO),

ACKNOWLEDGING that, by adopting IMO Assembly Resolution A.888(21), "Criteria for the Provision of Mobile-Satellite Communication Systems in the Global Maritime Distress and Safety System (GMDSS)," the International Maritime Organization (IMO) has recognized the need for IMO to have in place criteria against which to evaluate the capabilities and performance of mobile satellite communication systems, as may be notified to IMO by Governments for possible recognition for use in the GMDSS,

ACKNOWLEDGING FURTHER that IMO has developed a "Procedure for the Evaluation and Possible Recognition of Mobile-Satellite Systems Notified for Use in the GMDSS",

ACKNOWLEDGING ALSO the desire of Parties to promote the growth of a pro-competitive market environment in the current and future provision of mobile satellite communications systems services for the GMDSS,

AFFIRMING that, under such circumstances, there is a need to ensure continuity in the provision of GMDSS through intergovernmental oversight,

AGREE AS FOLLOWS:

Article 1

Definitions

For the purposes of this Convention:

- (a) "The Organization" means the intergovernmental organization established pursuant to Article 2.
- (b) "GMDSS" means the Global Maritime Distress and Safety System as established by the International Maritime Organization (IMO).
- (c) "Provider" means any entity or entities, which, through a mobile satellite communications system recognized by the International Maritime Organization, provides services for GMDSS.
- (d) "Party" means a State for which this Convention has entered into force.
- (e) "Public Services Agreement" means an Agreement executed by the Organization and a Provider, as referred to in Article 4(1).

Article 2

Establishment of the Organization

The International Mobile Satellite Organization (IMSO), herein referred to as “the Organization”, is hereby established.

Article 3

Purpose

- (1) The primary purpose of the Organization is to ensure the provision, by each Provider, of maritime mobile satellite communications services for the GMDSS according to the legal framework set up by the International Maritime Organization (IMO).
- (2) In implementing the primary purpose set out in paragraph (1), the Organization shall:
 - (a) act exclusively for peaceful purposes; and
 - (b) perform the oversight functions in a fair and consistent manner among Providers.

Article 4

Oversight

- (1) The Organization shall execute a Public Services Agreement with each Provider, and shall conclude such other arrangements as may be necessary to enable the Organization to perform its oversight functions, and to report as well as make recommendations, as appropriate.
- (2) Oversight of Providers by the Organization shall be based on:
 - (a) any specific conditions or obligations imposed by the International Maritime Organization during, or at any stage after, the recognition and authorization of the Provider;
 - (b) relevant international regulations, standards, recommendations, resolutions and procedures relating to the GMDSS;
 - (c) the relevant Public Services Agreement and any other related arrangements concluded between the Organization and the Provider.

(3) Each Public Services Agreement shall include, *inter alia*, general provisions, common principles and appropriate obligations for the Provider in accordance with a Reference Public Services Agreement and guidelines developed by the Assembly, including arrangements for the provision of all the information necessary for the Organization to fulfil its purpose, functions and duties, consistent with Article 3.

(4) All Providers shall execute Public Services Agreements which shall also be executed by the Director on behalf of the Organization. Public Services Agreements shall be approved by the Assembly. The Director shall circulate the Public Services Agreements to all Parties. Such Agreements shall be considered approved by the Assembly unless more than one-third of the Parties submit written objections to the Director within three months from the date of circulation.

Article 5

Facilitation

(1) Parties shall take appropriate measures, in accordance with national laws, to enable Providers to provide GMDSS services.

(2) The Organization, through existing international and national mechanisms dealing with technical assistance, should seek to assist Providers in their effort to ensure that all areas, where there is a need, are provided with mobile satellite communications services, giving due consideration to the rural and remote areas.

Article 6

Structure

The organs of the Organization shall be:

- (a) The Assembly.
- (b) A Directorate, headed by a Director.

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Article 7

Assembly - Composition and Meetings

- (1) The Assembly shall be composed of all the Parties.
- (2) Regular sessions of the Assembly shall be held once every two years. Extraordinary sessions shall be convened upon the request of one-third of the Parties or upon the request of the Director, or as may be provided for in the Rules of Procedure for the Assembly.
- (3) All Parties are entitled to attend and participate at meetings of the Assembly, regardless of where the meeting may take place. The arrangements made with any host country shall be consistent with these obligations.

Article 8

Assembly - Procedure

- (1) Each Party shall have one vote in the Assembly.
- (2) Decisions on matters of substance shall be taken by a two-thirds majority, and on procedural matters by a simple majority, of the Parties present and voting. Parties which abstain from voting shall be considered as not voting.
- (3) Decisions whether a question is procedural or substantive shall be taken by the Chairman. Such decisions may be overruled by a two-thirds majority of the Parties present and voting.
- (4) A quorum for any meeting of the Assembly shall consist of a simple majority of the Parties.

Article 9

Assembly - Functions

The functions of the Assembly shall be:

- (a) to consider and review the purposes, general policy and long term objectives of the Organization and the activities of the Providers which relate to the primary purpose;
- (b) to take any steps or procedures necessary to ensure that each Provider carries out its obligation of providing maritime mobile satellite communications services for the GMDSS, including approval of the conclusion, modification and termination of Public Services Agreements;

- (c) to decide upon questions concerning formal relationships between the Organization and States, whether Parties or not, and international organizations;
- (d) to decide upon any amendment to this Convention pursuant to Article 18 thereof;
- (e) to appoint a Director under Article 10 and to remove the Director;
- (f) to endorse the budget proposals of the Director; and
- (g) to exercise any other function conferred upon it under any other Article of this Convention.

Article 10

Directorate

- (1) The term of appointment of the Director shall be for four years or such other term as the Assembly decides.
- (2) The Director shall serve for a maximum of two consecutive terms, unless the Assembly decides otherwise.
- (3) The Director shall be the legal representative of the Organization and Chief Executive Officer of the Directorate, and shall be responsible to and under the direction of the Assembly.
- (4) The Director shall, subject to the guidance and instructions of the Assembly, determine the structure, staff levels and standard terms of employment of officials and employees, and consultants and other advisers to the Directorate, and shall appoint the personnel of the Directorate.
- (5) The paramount consideration in the appointment of the Director and other personnel of the Directorate shall be the necessity of ensuring the highest standards of integrity, competency and efficiency.
- (6) The Organization shall conclude, with any Party in whose territory the Organization establishes the Directorate, an agreement, to be approved by the Assembly, relating to any facilities, privileges and immunities of the Organization, its Director, other officers, and representatives of Parties whilst in the territory of the host Government, for the purpose of exercising their functions. The agreement shall terminate if the Directorate is moved from the territory of the host Government.

(7) All Parties, other than a Party which has concluded an agreement referred to in paragraph (6), shall conclude a Protocol on the privileges and immunities of the Organization, its Director, its staff, of experts performing missions for the Organization and representatives of Parties whilst in the territory of Parties for the purposes of exercising their functions. The Protocol shall be independent of this Convention and shall prescribe the conditions for its termination.

Article 11

Costs

(1) The Organization shall, in the Public Services Agreements, arrange for the costs associated with the following to be paid by the Providers:

- (a) the operation of the Directorate;
- (b) the holding of Assembly sessions and meetings of its subsidiary bodies; and
- (c) the implementation of measures taken by the Organization in accordance with Article 4 to ensure that the Provider carries out its obligation of providing maritime mobile satellite communications services for the GMDSS.

(2) The costs defined in paragraph (1) shall be apportioned between all Providers according to rules set up by the Assembly.

(3) Each Party shall meet its own costs of representation at Assembly sessions and meetings of its subsidiary bodies.

Article 12

Liability

Parties are not, in their capacity as such, liable for the acts and obligations of the Organization or the Providers, except in relation to non-Parties or natural or juridical persons they might represent in so far as such liability may follow from treaties in force between the Party and the non-Party concerned. However, the foregoing does not preclude a Party which has been required to pay compensation under such a treaty to a non-Party or to a natural or juridical person it might represent from invoking any rights it may have under that treaty against any other Party.

Article 13

Legal Personality

The Organization shall have legal personality. For the purpose of its proper functioning, it shall, in particular, have the capacity to contract, to acquire, lease, hold and dispose of movable and immovable property, to be a party to legal proceedings and to conclude agreements with States or international organizations.

Article 14

Relationship with other International Organizations

The Organization shall cooperate with the United Nations and its bodies dealing with the Peaceful Uses of Outer Space and Ocean Area, its Specialized Agencies, as well as other international organizations, on matters of common interest.

Article 15

Settlement of Disputes

Disputes between Parties, or between Parties and the Organization, relating to any matter arising under this Convention, should be settled by negotiation between the parties concerned. If within one year of the time any party has requested settlement, a settlement has not been reached and if the parties to the dispute have not agreed either (a) in the case of disputes between Parties to submit it to the International Court of Justice; or (b) in the case of other disputes to some other procedure for settling disputes, the dispute may, if the parties to the dispute consent, be submitted to arbitration in accordance with the Annex to this Convention.

Article 16

Consent to be Bound

(1) This Convention shall remain open for signature in London until entry into force and shall thereafter remain open for accession. All States may become Parties to the Convention by:

- (a) Signature not subject to ratification, acceptance or approval, or
- (b) Signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval, or
- (c) accession.

- (2) Ratification, acceptance, approval or accession shall be effected by the deposit of the appropriate instrument with the Depositary.
- (3) Reservations cannot be made to this Convention.

Article 17

Entry into Force

- (1) This Convention shall enter into force sixty days after the date on which States representing 95 percent of the initial investment shares have become Parties to the Convention.*
- (2) Notwithstanding paragraph (1), if the Convention has not entered into force within thirty-six months after the date it was opened for signature, it shall not enter into force.
- (3) For a State which deposits an instrument of ratification, acceptance, approval or accession after the date on which the Convention has entered into force, the ratification, acceptance, approval or accession shall take effect on the date of deposit.

Article 18

Amendments

- (1) An amendment to this Convention may be proposed by any Party. The proposed amendment shall be circulated by the Director to all Parties and to Observers. The Assembly shall consider the proposed amendment not earlier than six months thereafter. This period may in any particular case be reduced by up to three months by a substantive decision of the Assembly. Providers and Observers shall have the right to provide comments and input to Parties concerning the proposed amendment.
- (2) If adopted by the Assembly, the amendment shall enter into force one hundred and twenty days after the Depositary has received notices of acceptance from two-thirds of those States which, at the time of adoption by the Assembly, were Parties. Upon entry into force, the amendment shall become binding upon those Parties that have accepted it. For any other State which was a Party at the time of adoption of the amendment by the Assembly, the amendment shall become binding on the day the Depositary receives its notice of acceptance.

* the Convention entered into force on 16 July 1979.

Article 19

Withdrawal

Any Party may, by written notification to the Depositary, withdraw voluntarily from the Organization at any time, such withdrawal to be effective upon receipt by the Depositary of such notification.

Article 20

Depositary

- (1) The Depositary of this Convention shall be the Secretary-General of the International Maritime Organization.
- (2) The Depositary shall promptly inform all Parties of:
 - (a) Any signature of the Convention.
 - (b) The deposit of any instrument of ratification, acceptance, approval or accession.
 - (c) The entry into force of the Convention.
 - (d) The adoption of any amendment to the Convention and its entry into force.
 - (e) Any notification of withdrawal.
 - (f) Other notifications and communications relating to the Convention.
- (3) Upon entry into force of an amendment to the Convention, the Depositary shall transmit a certified copy to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF the undersigned, duly authorized by their respective Governments, have signed this Convention.

DONE AT LONDON this third day of September one thousand nine hundred and seventy-six in the English, French, Russian and Spanish languages, all the texts being equally authentic, in a single original which shall be deposited with the Depositary, who shall send a certified copy to the Government of each of the States which were invited to attend the International Conference on the Establishment of an International Maritime Satellite System and to the Government of any other State which signs or accedes to this Convention.

[Signatures omitted]